

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion into Competition for
Local Exchange Service.

Rulemaking 95-04-043
(Filed April 26, 1995)

Order Instituting Investigation on the
Commission's Own Motion into Competition
for Local Exchange Service.

Investigation 95-04-044
(Filed April 26, 1995)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING MOTION TO
ACCEPT LATE-FILED COMMENTS ON DRAFT DECISION**

On December 13, 2005, Douglas F. Carlson filed a document entitled "Douglas F. Carlson Comments on Draft Decision on Carlson Petition to Modify D.96-12-086." The comments on the Draft Decision were filed late. Pursuant to Rule 77.2, comments were due on December 5, 2005. Carlson thus concurrently filed a motion to accept the late-filed comments.

Carlson limits his comments to the issue of the due date for further comments as set forth in the Draft Decision. Carlson believes that if the draft decision is approved as currently written, parties' further comments would be due on January 4, 2006. Carlson argues that it would be difficult, if not impossible, to file comments by January 4, 2006, given the upcoming holiday period. Carlson claims that he would have filed comments sooner had he understood earlier that this item was on the Commission's December 15, 2005, agenda and if he had earlier been able to evaluate the time required to complete

remaining tasks. Carlson argues that no participant will be prejudiced by late acceptance of his comments.

Discussion

Carlson's concern with the due date for further comments is based on the belief that such comments would be due on January 4, 2006. This belief is based on the assumption that comments would be due within 20 *calendar* days after the effective date of a Commission's order on December 15, 2005. Yet the Draft Decision calls for further comments to be due 20 *working days* after the effective date of the Commission order. *Working* days only cover a Monday-through-Friday period, excluding Saturday, Sunday, and legal holidays. A period of 20 *working* days from December 15 would extend to January 17, 2006. Therefore, there is no need to revise the Draft Decision to address Carlson's concern, since it already provides the amount of time Carlson claims he needs. Likewise, because the late-filed comments provide no basis to revise the Draft Decision, there is no compelling reason to deviate from Commission rules by accepting comments that were not timely filed.

IT IS RULED that:

1. The request for the revision as sought in the Douglas F. Carlson comments is moot since the Draft Decision already provides for 20 working days in which to file further comments.
2. The motion to accept the "Douglas F. Carlson Comments on Draft Decision on Carlson Petition to Modify D.96-12-086" is denied since the comments were not timely filed.

Dated December 14, 2005 in San Francisco, California.

/s/ THOMAS R. PULSIFER by PSW

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Motion to Accept Late-Filed Comments on Draft Decision on all parties of record in this proceeding or their attorneys of record.

Dated December 14, 2005, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

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